

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

TONI MARIE BULLOCK,

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Plaintiff,

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CIVIL ACTION NO.:

v.

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**THE UNIVERSITY OF TEXAS
AT ARLINGTON**

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Defendant.

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COMPLAINT AND NOTICE

COMES NOW Plaintiff Toni Marie Bullock, by and through her counsel, David Fielding, and hereby files the within Complaint in Civil Action against the above-named Defendant, and in support thereof, avers as follows:

Parties to the Case

1. The Plaintiff is Toni Marie Bullock (“Ms. Bullock”), an adult female individual who currently resides in Sherman, Texas.
2. The Defendant is The University of Texas at Arlington, (“UTA”), a state university, that is part of the University of Texas system, located in Arlington, Texas.

Personal Jurisdiction of the Parties

3. All previous paragraphs are incorporated.
4. Personal jurisdiction over the Plaintiff exists for the purposes of this dispute, because Ms. Bullock has filed this Complaint in the Northern District of Texas, Fort Worth Division.
5. Personal jurisdiction over the UTA exists for the purposes of this dispute because it is incorporated in the State of Texas and its principal place of business is located in the Northern District of Texas with the Fort Worth Division's territory.

Subject Matter Jurisdiction

6. All previous paragraphs are incorporated.
7. This action is brought pursuant to 29 U.S.C. § 794 *et seq.*, Title IX of the Education Amendments of 1972 (as amended), and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132. Therefore, pursuant to 28 U.S.C. § 1331, the United States District Courts have subject matter jurisdiction over this dispute.

Venue

8. All previous paragraphs are incorporated.
9. The venue for this dispute is properly the Northern District of Texas pursuant to 28 U.S.C. § 1331 (b) because the events and omissions which give rise to the claims asserted herein occurred in the Northern District of Texas, in or around Arlington, Texas, which is in the Fort Worth division of this District.

Facts

10. All previous paragraphs are incorporated.
11. Plaintiff is a student at the University of Texas at Arlington (UTA) who, according to her doctor suffers from severe major depressive disorder and post-traumatic stress disorder. In March of 2018, her doctor, Dr. Arthur Westover at UT Southwestern Clinical Center in Richardson/Plano requested in writing that she be given (1) extended time for examinations and (2) extended time to complete assignments. Later that month, Plaintiff met with the Associate Director of UTA's Office for Students with Disabilities and requested such accommodations for the fall of 2018 semester and on March 28, 2018 Plaintiff received an Accommodation Letter from UTA granting her accommodations.
12. During the fall semester of 2018, Plaintiff sent the Accommodation Letter to one of her professors, Professor Durand, so that the professor would grant her the accommodations she needed in Professor Durand's course. The professor later denied having seen the Accommodation Letter because it was sent to her personal email address rather than her professional email address.
13. In September of 2018, Plaintiff needed additional time to complete certain assignments, but UTA failed and refused to accommodate her. UTA did, however, issue a new Accommodation Letter and Plaintiff sent the new letter to Professor Durand, who acknowledged receipt of both Accommodation Letters. However,

Professor Durand refused to retroactively apply the second Accommodation Letter, resulting in negative grades for Plaintiff on certain assignments. Plaintiff attempted to get UTA to reverse its decisions on these negative grades. Plaintiff's emotional condition deteriorated as a result of UTA's refusal to follow the terms of the Accommodation Letters, and she received a failing grade and her performance suffered in ALL classes for the Fall 2018 semester which were all taught by Professor Durand. She was also forced to file a Complaint with the United States Department of Education, Office for Civil Rights (OCR) alleging violations of the Rehabilitation Act of 1973, Section 504, 29 U.S.C. § 794 (amended 1992), Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132. The OCR investigates these complaints in an effort to force the institution to comply with the law, but it does not seek damages on behalf of the students adversely affected by the institution's unlawful actions.

14. While OCR was investigating Plaintiff's complaint, UTA offered to settle the Complaint and a Resolution Agreement was signed by UTA on July 17, 2019. Under the Resolution Agreement UTA agreed to allow Plaintiff to re-take the courses that she previously took with her accommodations being denied at no additional cost to her, to utilize the new grade she made in the courses in calculating her GPA, and making other adjustments requested by Plaintiff, as well as refunding her tuition and fees relating to one of the courses. UTA also agreed to take other actions, including

conducting training on its obligation under Section 504 and Title II. By taking this actions, UTA was able to stop OCR's investigation of Plaintiff's complaint and head off an adverse finding to could have been made against UTA on the complaint. Because OCR does not seek to recover damages for complainants under the statutes it enforces, there was no provision for making Plaintiff whole in the Resolution Agreement, even though Plaintiff suffered severe emotional distress as UTA was failing to accommodate her disabilities and her education was delayed a full year as she dealt with the complaint.

Failure to Accommodate and Discrimination

15. UTA's actions in failing and refusing to accommodate Plaintiff's disabilities constituted a violation of the Rehabilitation Act and the Americans with Disabilities Act. Because such acts were intentional, Plaintiff is entitled to recover compensatory damages for the educational opportunities lost or delayed. Moreover, Plaintiff experienced severe emotional trauma as a result of UTA's failure and refusal to accommodate her disabilities. At all times herein relevant, UTA was a recipient of Federal financial assistance and a covered entity under the Rehabilitation Act and the Americans with Disabilities Act and Plaintiff was a student entitled to protection under both statutes. In blatant violation of the Rehabilitation Act and the Americans with Disabilities Act, Defendant's employees engaged in practices towards Plaintiff which willfully discriminated against her and harassing acts described herein.

Consequently, Plaintiff seeks redress for unlawful discrimination and a failure to accommodate her disabilities under the statutes. Additionally, Defendant's actions were intentionally committed against her.

16. As a result of Defendant's acts and omissions, Plaintiff has suffered stress, panic attacks and depression, all of which have negatively impacted her emotional condition and self-esteem. In addition, because she was forced to take her courses without receiving her accommodations, they needed to be repeated which delayed her graduating by at least one year.

17. All administrative prerequisites have been fulfilled prior to the filing of this lawsuit.

Attorneys' Fees

18. As a result of Defendant's unlawful actions set forth herein, Plaintiff has been required to retain the services of the law firm of David Fielding, pc to represent her interests and is entitled to recover of and from Defendant all reasonable attorneys' fees to compensate such attorneys for their services performed in connection with this lawsuit.

Jury Demand

19. Plaintiff hereby demands trial by jury as to all issues so triable.

Damages

20. As a result of Defendant's unlawful discrimination and tortious conduct,

Plaintiff has suffered the following damages:

- (A) Damages in a sum in excess of this Court's minimum jurisdictional requirements representing compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and other nonpecuniary losses in a sum in excess of this Court's minimum jurisdictional requirements; and
- (B) Damages in a sum in excess of this Court's minimum jurisdictional requirements representing all lost or delayed educational benefits.

Prayer

21. WHEREFORE, Plaintiff respectfully requests that Defendant be cited to appear and answer herein and that upon final hearing, Plaintiff have judgment against the Defendant as follows:

1. That this Court adjudge and decree that Defendant has violated the Rehabilitation Act and the Americans with Disabilities Act;
2. That this Court award Plaintiff actual damages for delay in her educational opportunities sought at UTA;
3. That this Court award compensatory damages against Defendant;
4. That this Court award pre-judgment interest and post-judgment interest at the highest rate allowed by law;
5. That this Court award attorneys' fees as requested herein;

6. That this Court award Plaintiff all costs of this action;
7. That this Court grant Plaintiff additional equitable and legal relief as the Court deems just and proper under the circumstances.

Respectfully submitted,

/s/ David Fielding
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State Bar No. 06974500

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Attorneys for Plaintiff
Toni Marie Bullock

CERTIFICATE OF SERVICE

This is to certify that on the 16th day of July, 2021, a true and correct copy of the foregoing document was served via electronic mail upon all parties listed below via Jason Contreras:

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